



ADMINISTRATIVE RULES OF MONTANA

6.6.3117 STANDARDS FOR MARKETING

- (1) Every issuer, health service corporation, health maintenance organization or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:
 - (a) establish marketing procedures and producer training requirements to assure that:
 - (i) any marketing activities, including comparison of policies, by its producers or other producers, will be fair and accurate; and
 - (ii) excessive insurance is not sold or issued;
 - (b) display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy or certificate the following:

"Notice to buyer: This policy or certificate may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."
 - (c) provide copies of the disclosures required in ARM 6.6.3121 on forms specified in ARM 6.6.3120(1)(b) and (f);
 - (d) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required;
 - (e) establish auditable procedures for verifying compliance with this rule;
 - (f) the issuer must at solicitation, provide written notice to the prospective policyholder and certificateholder that a senior insurance counseling program is available and the name, address, and telephone number of the program;
 - (g) for long-term care health insurance policies and certificates, use the terms "noncancelable" or "level premium" only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the issuer has no right to unilaterally make any change in any provision of the insurance or in the premium rate; and
 - (h) provide an explanation of contingent benefit upon lapse provided for in ARM 6.6.3119.

- (2) In addition to the practices prohibited in Title 33, chapter 18, Montana Code Annotated, the following acts and practices are prohibited:
- (a) twisting or knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or issuers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or certificate or to take out a policy of insurance or certificate with another issuer;
 - (b) high pressure tactics such as employing any method of marketing having the effect of, or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance;
 - (c) cold lead advertising such as making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company; and
 - (d) misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.
- (3) With respect to the obligations set forth in this rule:
- (a) the primary responsibility of an association, as defined in 33-22-1107, MCA, when endorsing long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.
 - (b) the issuer shall file with the insurance department the following material:
 - (i) the policy and certificate;
 - (ii) a corresponding outline of coverage; and
 - (iii) all advertisements requested by the insurance department.
 - (c) the association shall disclose in any long-term care insurance marketing materials developed by the association:
 - (i) the specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement of the policy or certificate to its members; and
 - (ii) a brief description of the process under which such policies and the issuer issuing such policies were selected.
 - (d) if the association and the issuer have interlocking directorates or trustee arrangements, the association shall disclose such fact to its members.
 - (e) The board of directors of associations endorsing long-term care insurance policies or certificates shall review and approve such insurance policies as well as the compensation arrangements made with the issuer.
 - (f) the association shall also:

- (i) at the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the issuer to conduct an examination of the policies, including its benefits, features, and rates and update such examination thereafter in the event of material change;
 - (ii) actively monitor the marketing efforts of the issuer and its producers;
 - (iii) review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding such policies or certificates; and
 - (iv) (3)(f)(i) through (3)(f)(iii) do not apply to qualified long-term care insurance contracts.
- (g) No group long-term care insurance policy or certificate may be issued to an association unless the issuer files with the state insurance department the information required in this rule.
- (h) The issuer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the issuer certifies annually that the association has complied with the requirements set forth in this rule.
- (i) Failure to comply with the filing and certification requirements of this rule constitutes an unfair trade practice in violation of Title 33, chapter 18, Montana Code Annotated.

Authorizing statute(s): 33-1-313, 33-22-1121, MCA

Implementing statute(s): 33-22-1101, 33-22-1102, 33-22-1103, 33-22-1107, 33-22-1108, 33-22-1111, 33-22-1112, 33-22-1113, 33-22-1114, 33-22-1115, 33-22-1116, 33-22-1117, 33-22-1119, 33-22-1120, 33-22-1121, MCA

History: NEW, 1995 MAR p. 2242, Eff. 1/1/96; TRANS & AMD, from ARM 6.6.5601, 1998 MAR p. 3271, Eff. 12/18/98; AMD, 2008 MAR p. 615, Eff. 10/1/08; AMD, 2019 MAR p. 126, Eff. 1/26/19.